

THIS DISPOSITION IS NOT  
CITABLE AS PRECEDEN OF THE TTAB JUNE 18, 99  
U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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In re Vinod Bhandari

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Serial No. 75/255,103

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Oliver E. Todd, Jr., of MacMillan Sobanski & Todd for Vinod Bhandari.

Carol A. Spils, Trademark Examining Attorney, Law Office  
101 (Jerry Price, Managing Attorney).

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Before Hanak, Quinn and Bucher, Administrative Trademark Judges.

Opinion by Bucher, Administrative Trademark Judge:

Applicant, Vinod Bhandari, a citizen of the United Kingdom, filed an application for registration of the mark "KIDS INN" for "hotel and motel services; restaurant

services."<sup>1</sup> Applicant disclaimed the word "INN" apart from the mark as shown.

The Trademark Examining Attorney issued a final refusal to register based upon Section 2(d) of the Trademark Act, 15 U.S.C. §1052(d), on the ground that applicant's proposed mark, "KIDS INN," when used on these lodging and restaurant services, so resembles the registered mark, "CHILDREN'S INN," as applied to "lodging services for use of children and their families who are patients at NIH<sup>2</sup>," as to be likely to cause confusion, or to cause mistake, or to deceive.<sup>3</sup>

Applicant has appealed the final refusal to register. Briefs have been filed, but applicant did not request an oral hearing. We reverse the refusal to register.

The Trademark Examining Attorney takes the position that the two marks have the same connotation since

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<sup>1</sup> Serial No. 75/255,103, in International Class 42, filed March 10, 1997, based upon an allegation of a *bona fide* intention to use the mark in commerce.

<sup>2</sup> NIH is an initialism that stands here for "National Institutes of Health."

<sup>3</sup> Registration No. 2,034,869 issued on February 4, 1997. The registration sets forth dates of first use of June 1987. Registrant disclaimed the word "INN" apart from the mark as

"children's" and "kids" have the same meaning, and are followed by the same word "inn." As to the services, she contends that applicant's broad recital of services encompasses the more restrictive services of registrant.

By contrast, applicant argues that since the common word, "inn," is generic in the hotel business, and since both marks are overall highly suggestive, some similarity in meaning is insufficient to support a finding of confusingly similarity between these two marks. In addition to the differences in the sound and appearance of the two marks, applicant argues that registrant's services are a restricted, specialized type of lodging services directed to sophisticated purchasers. Such consumers would never believe upon seeing applicant's mark on general lodging services that there was a connection, according to applicant.

In the course of rendering this decision, we have followed the guidance of In re E.I. du Pont DeNemours & Co., 476 F.2d 1357, 1362, 177 USPQ 563, 567-68 (CCPA 1973), that sets forth the factors which, if relevant, should be considered in determining likelihood of confusion.

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shown, and this registration issued under Section 2(f),

In placing these marks on the distinctiveness spectrum of marks, we find that both marks are close to the line separating "highly suggestive" from "merely descriptive." While registrant's mark has a claim of acquired distinctiveness, neither applicant's mark nor registrant's mark is inherently strong. Accordingly, while the overall meanings are quite similar, we are reluctant to accord the registration a broader scope of protection than is warranted. Hence, since the word "Kids" and the word "Children's" are sufficiently distinct in sound and appearance, we conclude that in spite of these similar connotations, when viewed as a whole, these two marks are not confusingly similar.

We turn next to the similarity in the services as described in the application and registration. While registrant clearly directs its services to a most narrow segment of purchasers, we agree with the general proposition that, as in this case, an applicant's broad recital of services must be deemed to encompass a registrant's restricted scope of services. Furthermore, the fact that registrant's consumers are involved with the NIH is insufficient by itself to have us conclude that these are sophisticated purchasers.

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reflecting a demonstration of acquired distinctiveness.

On the other hand, to the extent we examine the variety of services on which registrant's mark is or is not used, it seems unlikely that someone familiar with NIH's connections with "CHILDREN'S INN" would assume, upon seeing "KIDS INN" on a hotel/motel/restaurant targeting the general public, that registrant had expanded into this general marketplace. Accordingly, given registrant's most specialized type of lodging services, the extent of potential confusion appears to be *de minimis*.

Accordingly, although there is herein a potential of overlapping lodging services in a legal sense, given the overall differences in these highly suggestive marks and the restrictions placed on registrant's services, we find the chance of confusion in the actual marketplace to be *de minimis*.

Decision: The refusal to register is reversed.

E. W. Hanak

T. J. Quinn

D. E. Bucher

Ser. No. 75/255,103

Administrative Trademark  
Judges, Trademark Trial and  
Appeal Board